IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5990 OF 2005

Dattu Chahu Bhasma ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr.Ajit Ram Pitale for the Applicant
Ms S.D.Shinde,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : OCTOBER 24,2005

P.C.:

1. Heard Advocate for the Applicant and the learned A.P.P. for State. Offence has been registered under Section 302 and 201 of the Indian Penal Code. The learned Advocate for the Applicant submitted that there is no direct evidence of the involvement of the Applicant and the statements of witnesses who have stated that the Applicant was last seen together with the deceased have been belatedly recorded. The learned A.P.P. submitted that at least three witnesses have stated that they had seen the Applicant with the deceased. The learned A.P.P. pointed out that the report of the Professor & Head, Department of Anatomy, Grant Medical College, Mumbai which records that the bones which were recovered are human bones. The learned A.P.P. submitted that considering the evidence of last seen together with the deceased and other material including the report of the expert, complicity of the Applicant is established.

2. I have considered the submissions. The statements of the

three material witnesses who have allegedly seen the Applicant with the deceased have been recorded on 14th May 2005 i.e. more than three months after the date on which the witnesses have allegedly seen the Applicant with the deceased. The report of the Professor & Head, Department of Anatomy, Grant Medical College does not disclose whether the bones were of male or female. Even no opinion is given regarding the age of the deceased or the possible cause of death. Thus, the only evidence against the Applicant seems to be of last seen together with the deceased. As stated earlier the statements of the said witnesses have been belatedly recorded. Admittedly, there are no criminal antecedents of the Applicant. Hence, a case is made out for enlarging the Applicant on bail by imposing stringent conditions.

3. Hence I pass the following order :

i) The Applicant shall be enlarged on bail in connection with C.R.No. I-12/2005 registered with Kinhavali Police Station, Thane subject to furnishing a personal bond of Rs.15,000/- (Rupees fifteen thousand only) with one or two local sureties in the like amount.

ii) The bail is granted subject to the condition that till the conclusion of the trial the Applicant will not enter the area falling within the jurisdiction of Kinhavali Police Station,

Thane.

iii) The order granting bail will be given effect only after the Applicant furnishes his detailed address of place of residence where he proposes to stay after he is enlarged on bail.

iv) The bail is granted subject to the condition that the Applicant will report to the concerned local Police Station once in a fortnight till conclusion of the trial.

v) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

vi) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

vii) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

viii) Application is disposed of in above terms.

ix) Parties to act upon an authenticated copy of this order.

JUDGE